

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

AMERICAN TITLE, INC.,)	
)	8:03CV463
Plaintiff,)	
)	
vs.)	ORDER
)	
GENISYS FINANCIAL CORPORATION,)	
)	
Defendant.)	

This matter is before the court on the motion of Charles O. Forrest and the firm of Dwyer, Smith, Gardner, Lazer, Pohren, Rogers and Forrest, LLP to withdraw as counsel for the defendant Genisys Financial Corporation (Filing No. 91). Mr. Forrest requests leave to withdraw and for an extension of time for the parties to brief the pending motions before the court. Mr. Forrest states the plaintiff has no objection to the motion and that the defendant is seeking substitute counsel.

The court notes no substitute counsel has yet appeared in this matter for The defendant. The Eighth Circuit has held that “the law does not allow a corporation to proceed *pro se*.” ***Ackra Direct Mktg. Corp. v. Fingerhut Corp.***, 86 F.3d 852, 857 (8th Cir. 1996); **see also *United States v. Van Stelton***, 988 F.2d 70, 70 (8th Cir. 1993) (noting that a corporation may not appear *pro se*); ***Carr Enters., Inc. v. United States***, 698 F.2d 952, 953 (8th Cir. 1983) (noting “[i]t is settled law that a corporation may be represented only by licensed counsel”). In fact, according to the Eighth Circuit, a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing. ***Ackra Direct***, 86 F.3d at 857. Under the circumstances, the court concludes counsel shall not be given leave to withdraw as attorney for the defendant until substitute counsel has entered an appearance or other order of the court. The defendant shall have an opportunity to obtain substitute counsel. Furthermore, under the circumstances a continuance of the briefing deadlines is warranted. Accordingly,

IT IS ORDERED:

1. The motion of Charles O. Forrest and the firm of Dwyer, Smith, Gardner, Lazer, Pohren, Rogers and Forrest, LLP to withdraw as counsel for the defendant Genisys Financial Corporation (Filing No. 91) is held in abeyance until May 5, 2006.

2. The defendant shall have substitute counsel enter an appearance on its behalf **on or before May 5, 2006**. If the defendant fails to have substitute counsel enter an appearance by that date the court may strike the answer of the defendant and enter default, pursuant to Fed. R. Civ. P. 37(b)(2)(C).

3. Charles O. Forrest shall serve a copy of his motion and this order on the defendant and file a certificate of service therefore.

4. The briefing schedule for the pending motions (Filing Nos. 71 and 75), as described in the court's March 22, 2006 order (Filing No. 90), is continued pending further order of the court.

DATED this 5th day of April, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge